THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.2089 of 2006

Between:

Somineni Someswara Rao, S/o. Malla Reddy

..... PETITIONER

AND

The Commissioner,

Municipal Corporation of Karimnagar

And another

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.2089 of 2006

ORDER:

The house bearing No.7-4-134 situated at Kashmirgadda in Karimnagar Town was originally owned by one Somineni Malla Reddy. After his death, on the application of his son – the petitioner herein; the Municipal Commissioner of Karimnagar Municipality (now a Corporation) by proceedings dated 26.7.2002 ordered mutation of the property in the name of the petitioner. The petitioner succeeded to the property and has been enjoying all ownership rights. The first respondent Corporation issued a notice dated 23.1.2006 purporting to be one under Section 456 of Hyderabad Municipal Corporations Act, 1955 (the Act, for brevity) (which is applicable to Karimnagar Municipal Corporation as well) calling upon the petitioner to pull down the structure and prevent danger therefrom within one day. This is assailed in the writ petition.

After hearing the learned Counsel for the petitioner and learned Standing Counsel for the first respondent Corporation, two lacunae in the action of the first respondent are patent. First one is, though the property stands mutated in the name of the petitioner, who is son of S.Malla Reddy, the notice was addressed to S.Malla Reddy, who died on 03.4.1998. Secondly, any action under Section 456 of the Act requires

a notice as mandated by Section 459 of the Act. No such notice was issued. In view of these, the impugned order cannot be sustained. Therefore, the matter is disposed of at the admission stage as follows.

The impugned notice/order is set aside. The first respondent is directed to get the petitioner's building inspected by the Chief Town Planning Officer or engineering department, after issuing a notice to the petitioner, and if the Commissioner comes to the conclusion that there is imminent threat of the petitioner's building falling down, he may issue notice under Section 456 of the Act and then take action under Section 456 of the Act. This Court further makes it clear that if the building is in such a dilapidated and ruinous condition and that it is likely to fall down imminently, even without a notice, the Commissioner can remove the dangerous structures, under his personal supervision. Till such exercise is completed, the petitioner's premises cannot be demolished.

The writ petition is accordingly disposed of. No costs.

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(V.V.S. RAO,J)

February 03, 2006.

NOTE:

Communicate the order by

WIRE at party's cost.

(By order)

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